



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON  
ATTORNEY GENERAL

June 1, 1959

Honorable J. W. Edgar  
Commissioner of Education  
Texas Education Agency  
Austin, Texas

Opinion Number WW-637

Re: Whether bonds to be  
issued under Section  
18, Article VII, Con-  
stitution of Texas,  
could be construed  
as revenue bonds.

Dear Dr. Edgar:

You have asked the opinion of this office as to whether the bonds which the Board of Regents of The University of Texas plans to sell in July might be construed as revenue bonds. You state that if they are construed as revenue bonds the State Board of Education may automatically waive its statutory option to purchase bonds issued by The University of Texas, by virtue of the Board's adopted policy not to purchase revenue bonds. If these bonds are not construed as revenue bonds, you ask whether a procedure of the Board in granting an advance waiver on this proposed issue would be legal.

It is the opinion of this office that bonds to be issued under the provisions of the 1956 Amendment to Section 18, Article VII, Constitution of Texas, will be revenue bonds. This amendment reads, in part:

"Any bonds or notes issued hereunder shall be payable solely out of the income from the Permanent University Fund." (Emphasis supplied).

Thus, there is no provision or authority for the use of funds derived from taxation to service these proposed bonds. The distinguishing feature of revenue bonds is that the holders of such bonds have no claim upon funds raised or to be raised by taxation in order to secure payment of their obligations.

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City of El Campo v. South Texas Nat. Bank of San Antonio et al., 200 S.W.2d 252 (Tex.Civ.App. 1946, error ref'd).

Article 2673, V.C.S., gives the State Board of Education an option to purchase any bonds issued by The University of Texas. However, according to your letter, the Board has adopted a policy of not purchasing revenue bonds. So long as this policy is adhered to, it will have the effect of automatically waiving the option given the Board by Article 2673, V.C.S., as concerns bonds to be issued pursuant to Section 18, Article VII, Constitution of Texas.

Since this office is of the opinion that bonds to be issued under the provisions of the Amendment to Section 18, Article VII, Constitution of Texas, will be revenue bonds, it is not necessary to answer the second question which you asked.

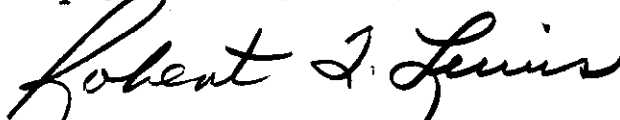
SUMMARY

Bonds to be issued by the Board of Regents of The University of Texas pursuant to the amendment to Section 18, Article VII, Constitution of Texas, will be revenue bonds.

Very truly yours,

WILL WILSON  
Attorney General of Texas

By



Robert T. Lewis  
Assistant

RTL-s

APPROVED:

OPINION COMMITTEE

Geo. P. Blackburn, Chairman

L. P. Lollar  
Larry Jones  
Paul W. Floyd, Jr.

REVIEWED FOR THE ATTORNEY GENERAL  
By: W. V. Geppert